

## **TRANSPORTATION NETWORK COMPANIES**

*Administrative Rules of the Texas Department of Licensing and Regulation  
16 Texas Administrative Code, Chapter 95  
(Effective December 1, 2017)*

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**95.1. Authority.** *(New Section adopted effective December 1, 2017, 42 TexReg 6615)*

This chapter is promulgated under Texas Occupations Code, Chapters 51 and 2402.

**95.2. Definitions.** *(New Section adopted effective December 1, 2017, 42 TexReg 6615)*

Unless otherwise defined in this chapter, each term used in this chapter has the meaning assigned by Texas Occupations Code, Chapter 2402 and Texas Government Code, Chapter 2001.

- (1) Airport— means an airport owner or operator.
- (2) Cruise Ship Terminal – means a governing body of a governmental entity with jurisdiction over a cruise ship terminal.

**95.10. Rule Construction.** *(New Section adopted effective December 1, 2017, 42 TexReg 6615)*

- (a) Nothing in these rules shall be construed to:
  - (1) prohibit an airport or cruise ship terminal from:
    - (A) imposing regulations including a reasonable fee to or from airport or cruise ship terminal;
    - (B) enforcing those regulations in a manner consistent with any compliance, assurances, and obligations under federal law, rules, regulations, and policies; or
    - (C) from requesting third-party auditable reports of the numbers of rides to and from an airport or cruise ship terminal; or
  - (2) authorize an airport or cruise ship terminal to compel data sharing or to impose additional requirements on a personal vehicle or driver; including, tracking of the vehicle or driver when logged into the digital network.
  - (3) prohibit transportation network companies and airports or cruise ship terminals from entering into mutual data sharing agreements.
- (b) For purposes of this section, a reasonable fee means a fee:
  - (1) established using one of the following fee setting methodologies for airports which provides for a self-sustaining and market based fee consistent with guidelines published by the Federal Aviation Administration and:
    - (A) imposed on May 29, 2017 by an airport;
    - (B) calculated by the costs of airport facilities and services used for non-aeronautical services including a market-based return proportionate to the uses of the facility. The fee resulting from the fee setting methodology must be transparent, and not unjustly discriminatory.
    - (C) for of an airport that did not have a fee imposed on the date referenced in paragraph (1)(A), and that adopts the fees imposed on the date in paragraph (1)(A) by an airport with a similar number of passengers boarding annually, or uses the fee setting methodology in paragraph (1)(B); or
    - (D) mutually agreed upon by the transport network company and the airport.

- (E) A reasonable fee established under this section may include an adjustment escalator option based on an appropriate index selected by the airport which incorporates geographic economic conditions.
- (2) the fee setting methodology for cruise ship terminals using one of the following fee setting methodologies including fees:
  - (A) imposed on May 29, 2017 by a cruise ship terminal;
  - (B) calculated by the costs of cruise ship terminal facilities and services including a market-based return proportionate to the uses of the facility. The fee resulting from the fee setting methodology must be transparent and not unjustly discriminatory;
  - (C) of a cruise ship terminal that did not have a fee imposed on the date referenced in paragraph (2)(A), and that adopts the fee imposed on the date in paragraph (2)(A) by a cruise ship terminal with a similar number of passengers boarding annually, or performs a cost-of-service study under paragraph (2)(B); or
  - (D) mutually agreed upon by the transportation network company and the cruise ship terminal.
  - (E) A reasonable fee established under this section may include an adjustment escalator option based on an appropriate index selected by the cruise ship terminal which incorporates geographic economic conditions.

**95.20. Permit Required.** *(New Section adopted effective December 1, 2017, 42 TexReg 6615)*

A person may not operate a transportation network company in this state without first obtaining and maintaining a transportation network company permit.

**95.21. Permit Terms.** *(New Section adopted effective December 1, 2017, 42 TexReg 6615)*

A transportation network company permit issued under this chapter is:

- (1) valid for one year from the date of issuance;
- (2) valid throughout the state; and
- (3) nontransferable.

**95.22. Transportation Network Company Permit Initial Application.** *(New Section adopted effective December 1, 2017, 42 TexReg 6615)*

To be eligible for a transportation network company permit, an applicant must:

- (1) submit a completed application on a form and in the manner prescribed by the department;
- (2) provide electronic proof of insurance with the policy coverage required by Texas Occupations Code, Chapter 2402;
- (3) certify that the applicant meets the requirements of Texas Occupations Code, Chapter 2402; and
- (4) pay the fee set out under §95.80.

**95.23. Transportation Network Company Permit Renewal Notice and Application.** *(New Section adopted effective December 1, 2017, 42 TexReg 6615)*

- (a) The department will send written notice to permit holders at least thirty (30) days before the permit expires. The notice will be emailed to the permit holder's last known email address in the department's licensing records.
- (b) To be eligible to renew a permit, a permit holder must:
  - (1) submit a completed application on a form and in the manner prescribed by the department;
  - (2) provide electronic proof of insurance with the coverage required by Texas Occupations Code, Chapter 2402;
  - (3) certify that the applicant continues to meet the requirements of Texas Occupations Code, Chapter 2402; and
  - (4) pay the fee set out under §95.80.
- (c) Late Renewal.
  - (1) To maintain continuous licensure, the renewal requirements under this section must be completed prior to the expiration of the permit.
  - (2) A late renewal means the permit holder will have an unlicensed period from the expiration date of the expired permit to the issuance date of the renewed permit. During the unlicensed period, a transportation network company must block drivers access to the digital network.
  - (3) Non-receipt of a permit renewal notice from the department does not exempt a permit holder from the requirements of this chapter.

**95.30. Permit Issuance.** *(New Section adopted effective December 1, 2017, 42 TexReg 6615)*

The department will issue a permit under this chapter to an applicant who meets the eligibility requirements for a permit.

**95.31. Permit Denial.** *(New Section adopted effective December 1, 2017, 42 TexReg 6615)*

The department may deny an application or revoke a permit if the applicant, a partner, principal, officer, or general manager of the applicant has:

- (1) violated an order of the commission or executive director, including an order for sanctions or administrative penalties; or
- (2) submitted false or incomplete information on the application.

**95.40. Responsibilities of the Department.** *(New Section adopted effective December 1, 2017, 42 TexReg 6615)*

- (a) Unless otherwise provided by statute or this chapter, the department may send notice of department proposed actions and decisions through email sent to the last email address designated by the permit holder in the department's licensing records.
- (b) At licensure, the department will provide the permit holder with the requirements for the accessibility pilot program report required by Texas Occupation Code, Chapter 2402.

**95.50. Reporting Requirements.** *(New Section adopted effective December 1, 2017, 42 TexReg 6615)*

- (a) For purposes of this section “Market” means the legal boundaries of a municipality as defined in Section 1.005 of the Local Government Code or the metropolitan statistical area as defined by the Office of Management and Budget.
- (b) A permit holder must electronically file with the department reports required by subsections (c)(1) and (d).
- (c) For purposes of the required Disability Compliance Report, the transportation network company is required to submit the information in subsection (c)(1) and (c)(2) within the 100<sup>th</sup> day after the transportation network company begins a pilot program.
  - (1) Disability Compliance Report. A report under this paragraph must include:
    - (A) Criteria for determining the four largest markets that the transportation company operates in this state;
      - (i) Identify the market(s) the transportation network company implemented the Accessibility Pilot Program; and
      - (ii) Explain the reason(s) for selecting the market(s) that the transportation network company used to implement the Accessibility Pilot Program.
    - (B) The services offered to disabled persons, including disabled persons using a fixed-frame wheelchair.
    - (C) A step-by-step explanation demonstrating the process for an individual to join and utilize the accessibility functions of their transportation network service Accessibility Pilot Program.
    - (D) A detailed plan that ensures referrals to alternate providers of fixed-frame wheelchair-accessible service are made in a manner that does not unreasonably delay the provision of service. The detailed plan must at a minimum:
      - (i) explain why the alternate provider of fixed-frame wheelchair-accessible service will not cause unreasonable delay in service;
      - (ii) include the initial number of alternate providers;
      - (iii) provide the average number of vehicles equipped to provide fixed-frame wheelchair-accessible service and available to each alternate provider;
      - (iv) state the hours each alternate provider of fixed frame wheelchair-accessible service is available for service; and
      - (v) describe the procedures to monitor and ensure alternate providers meet and maintain service levels that do not unreasonably delay fixed-frame wheelchair-accessible service.
  - (2) Disability Compliance Report Data Requirements. A report under this paragraph also must include:

- (A) The number of vehicles equipped to accommodate a passenger with a fixed-frame wheelchair that were available through the company's digital network in the pilot program market.
- (B) The number of fixed-frame wheelchair requests.
- (C) The number of rides provided to fixed-frame wheelchair-bound passengers.
- (D) The number of instances in which the company referred a fixed-frame wheelchair-bound passenger to an alternate provider because the passenger could not be accommodated by the company.
- (E) Average wait times for Accessibility Pilot Program market area. The permit holder must track and report the average time elapsed between the time a passenger initially requested a ride and the time the ride began for each:
  - (i) fixed-frame wheelchair-bound passenger serviced by the permit holder;
  - (ii) fixed-frame wheelchair-bound passenger referred to an alternate provider; and
  - (iii) non-wheelchair accessible requested ride.
- (3) A report submitted under this subsection that fails to demonstrate compliance will be considered incomplete and subject to correction and resubmission.
- (4) The report must contain a table of contents with each section of the report marked to identify the content cross referenced to each paragraph and subparagraph of this section.
- (5) A transportation network company may submit supplemental reports to the department every 90<sup>th</sup> day.
- (d) Accessibility Pilot Program Report. The report required by this subsection must be aggregated in ninety (90) day increments. The report must include final values for the entire period of the Accessibility Pilot Program and at a minimum include:
  - (1) The number of vehicles equipped to accommodate a passenger with a fixed-frame wheelchair that were available through the company's digital network in the pilot program market.
  - (2) The number of fixed-frame wheelchair requests.
  - (3) The number of rides provided to fixed-frame wheelchair-bound passengers.
  - (4) The number of instances in which the company referred a fixed-frame wheelchair-bound passenger to an alternate provider because the passenger could not be accommodated by the company.
  - (5) Average wait times for Accessibility Pilot Program market area. The permit holder must track and report the average time elapsed between the time a passenger initially requested a ride and the time the ride began for each:
    - (A) fixed-frame wheelchair-bound passenger serviced by the permit holder;
    - (B) fixed-frame wheelchair-bound passenger referred to an alternate provider; and

- (C) non-wheelchair accessible requested ride.

**95.51. Notification of Operations at Airports and Cruise Ship Terminals.** *(New Section adopted effective December 1, 2017, 42 TexReg 6615)*

A permit holder must provide the controlling authority of each airport or cruise ship terminal written notice of its operations or its intent to operate within their jurisdiction. Notification must be provided within thirty (30) days after receipt of a permit issued under this chapter.

**95.70. Maintain Current Email Address.** *(New Section adopted effective December 1, 2017, 42 TexReg 6615)*

A permit holder must provide to the department a valid email address and must keep the email address current during the term of the permit.

**95.71. Data Integrity, Name Changes, Address Changes, and Address Additions.** *(New Section adopted effective December 1, 2017, 42 TexReg 6615)*

- (a) A permit holder is obligated to ensure and maintain the accuracy of all information it provides to the department pursuant to this chapter.
- (b) A permit holder must notify the department in writing of any change to trade name, mailing address, physical address, email address, or telephone number on file with the department within fifteen (15) days of making such change.
  - (1) The notification shall identify the person making the change and the affected permit number.
  - (2) A notice of name change including trade name changes and trade name additions shall include supporting documentation from the Texas Secretary of State.
- (c) In the event of a trade name change or an address change, the permit holder shall submit on forms approved by the department, a request for this change and pay, if any, the fee required by §95.80.
- (d) A change requested under this section shall not be effective until approved by the department.

**95.72. Deceptive Practices Prohibited.** *(New Section adopted effective December 1, 2017, 42 TexReg 6615)*

A permit holder may not conduct business or advertise under a name that is deceptively similar to a name used by any other licensed transportation network company licensed under this chapter unless specifically approved in writing by the executive director.

**95.80. Fees.** *(New Section adopted effective December 1, 2017, 42 TexReg 6615)*

- (a) All fees are nonrefundable except as provided for by commission rules or statute.
- (b) Transportation Network Company Permit Fees:
  - (1) Original Application--\$10,500
  - (2) Renewal--\$7,500
  - (3) Permit Amendment--\$25
  - (4) Address change--\$25
  - (5) Name change--\$25

- (c) Late renewal fees for licenses and permits issued under this chapter are provided under §60.83 of this title (relating to Late Renewal Fees).

**95.90. Authority to Investigate.** *(New Section adopted effective December 1, 2017, 42 TexReg 6615)*

For purposes of investigating compliance with, or a violation of, these rules or applicable law, a permit holder must make records, drivers and vehicles logged into the transportation network service available to the department within ten (10) days of the request or within the time agreed to by the department.

**95.91. Administrative Sanctions.** *(New Section adopted effective December 1, 2017, 42 TexReg 6615)*

The department may suspend or revoke a permit issued to a transportation network company for violating a provision of Occupations Code, Chapter 2402, or impose administrative penalties, sanctions and civil remedies authorized by Occupations Code, Chapter 51 for violating a rule under this chapter, or order issued by the executive director, or regulation adopted by an airport or cruise ship terminal.

**95.100. Statutory Compliance.** *(New Section adopted effective December 1, 2017, 42 TexReg 6615)*

- (a) A permit holder must implement and follow all technical and operational requirements in Texas Occupations Code, Chapter 2402 including the timely filing of reports.
- (b) For purposes of compliance with 2402.111(a)(2)(A), a transportation network company shall consider a vehicle capable of transporting fixed-frame wheelchair passengers in the cabin as eligible.